

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOHANES WIDJAJA, ERNIE NG, VICTOR  
UTAMA AND AMPRI GUNARDI,

Plaintiffs,

**ORDER**  
09-CV-2089 (RRM)(CLP)

- against -

KANG YUE USA CORPORATION D/B/A/  
MOCA ASIAN BISTRO, AND JOHNSON  
CHEN,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

Plaintiffs seek to resolve outstanding pretrial issues regarding damages following the Court's Memorandum and Order partially granting plaintiffs' summary judgment motion on the issue of liability. (See Doc. Nos. 54, 66 and 67.) The Court has carefully reviewed all the relevant submissions from the parties, but has determined that supplemental briefing is required.

It is hereby

ORDERED that the parties shall file supplemental letter briefs, not to exceed five pages each, addressing the following questions:

- 1) Plaintiffs should demonstrate why the tip amounts that they admittedly *did* receive (attached to defendants' April 30, 2014 submission (Doc. No. 65) as Exhibit A) should not be accounted for in the damages calculation.
- 2) Plaintiffs should demonstrate why the 7.65% that was wrongfully withheld is counted both as part of the 11.5% unlawfully retained from plaintiffs' tips referred to in Section (B)(i) of their April 25, 2014 brief, as well as in FICA deductions referred to in Section (C). (Doc. No. 64).

3) Plaintiffs should provide authority for their claim that they should receive damages from the wrongfully applied tip credit (*i.e.* the difference between plaintiffs' wages and the minimum wage in effect at the time) *in addition to* damages from the wrongfully withheld tips (*i.e.* the 11.5% that was wrongfully withheld by defendants).

Plaintiffs shall file their supplemental letter brief on or before September 1, 2015.

Defendants shall respond on or before September 22, 2015.

SO ORDERED.

*Roslynn R. Mauskopf*

Dated: Brooklyn, New York  
August 10, 2015

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ROSLYNN R. MAUSKOPF  
United States District Judge